

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

**UNITED STATES OF AMERICA,**

**v.**

**JOSE LUIS ROJAS,**

**Defendant.**

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**CASE NUMBER 6:06-CR-00046-6-JDK-  
JDL**

**REPORT AND RECOMMENDATION OF  
UNITED STATES MAGISTRATE JUDGE**

On August 26, 2020, the Court conducted a hearing to consider the government's petition to revoke the supervised release of Defendant Jose Luis Rojas. The government was represented by Allen Hurst, Assistant United States Attorney for the Eastern District of Texas, and Defendant was represented by Ken Hawk, Federal Public Defender.

Defendant originally pled guilty to the offense of Conspiracy to Possess with Intent to Distribute Methamphetamine, a Class A felony. The United States Sentencing Guideline range for this offense, based on a total offense level of 33 and a criminal history category of VI, was 235 to 293 months. On August 21, 2007, District Judge Leonard Davis sentenced Defendant to 188 months imprisonment followed by five years of supervised release, subject to the standard conditions of release, plus special conditions to include financial disclosure and drug aftercare. On February 17, 2015, Defendant's term of imprisonment was reduced to 150 months and his total offense level was reduced to 31 pursuant to 18 U.S.C. § 3582(c)(2). On September 29, 2017, Defendant completed the term of imprisonment and began his term of supervised release. On December 18, 2018, Defendant's conditions of supervised release were modified to include placement in a residential reentry center for 180 days and alcohol abstinence. On January 10, 2019,

Defendant's conditions of supervised release were modified to include home detention through electronic monitoring for 180 days and testing and treatment for alcohol abuse.

Under the terms of supervised release, Defendant was to refrain from excessive use of alcohol. In Allegation 2 of its petition, the government alleges Defendant violated the conditions of his supervised release as evidenced by his February 15 and March 5, 2019, convictions for Driving While Intoxicated. If the Court finds by a preponderance of the evidence that Defendant violated the conditions of supervised release by committing the offense of Driving While Intoxicated, consuming alcohol to excess, and possessing and consuming alcoholic beverages on July 21 and December 1, 2018, Defendant will have committed a Grade C violation. U.S.S.G. § 7B1.1(a). Upon a finding of a Grade C violation, the Court may revoke the term of supervision. U.S.S.G. § 7B1.3(a)(2). Considering Defendant's criminal history category of VI, the Guideline imprisonment range for a Grade C violation is 8 to 14 months. U.S.S.G. § 7B1.4(a).

At the hearing, the parties indicated that they had come to an agreement to resolve the petition whereby Defendant would plead true to violating the conditions of supervision by committing the acts as alleged in Allegation 2 of the government's petition. In exchange, the government agreed to recommend to the Court a sentence of imprisonment of 12 months plus 1 day, with no supervised release to follow.

The Court therefore **RECOMMENDS** that Defendant Jose Luis Rojas' plea of true be accepted and he be sentenced to a term imprisonment of 12 months and 1 day, with no supervised release to follow. The Court further **RECOMMENDS** that Defendant serve his sentence at FCI Yazoo City, if available and substance abuse treatment while incarcerated, if available. The parties waived their right to objections so this matter shall be immediately presented to the District Judge for consideration.

**So ORDERED and SIGNED this 26th day of August, 2020.**

  
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JOHN D. LOVE  
UNITED STATES MAGISTRATE JUDGE